

FACTUAL HISTORY

On November 3, 2008 appellant, a 43-year-old nursing assistant, filed an occupational disease claim (Form CA-2) alleging that on October 7, 2008 while riding in an ambulance that was transporting a veteran she experienced shortness of breath, muscle aches and weakness.

Appellant submitted results from diagnostic tests, notes and reports diagnosing her with lower left lobe pneumonia, flu, anemia and mild thrombocytopenia.

In a December 2, 2008 note, appellant described the events of October 7, 2008 and information pertaining to her health and medical treatment.

By decision dated January 23, 2008, the Office denied appellant's claim because the evidence of record did not demonstrate that the claimed medical condition was caused by the established employment-related incident. It noted that it had converted appellant's claim to a traumatic injury claim (Form CA-1) because she alleged her condition was caused by an October 7, 2008 incident rather than over a period of time.

LEGAL PRECEDENT

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.² Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.³

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.⁴

² *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

³ *T.H.*, 59 ECAB ____ (Docket No. 07-2300, issued March 7, 2008); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

⁴ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

Appellant alleges that an October 7, 2008 employment incident caused pneumonia and other medical conditions. The Office has accepted that the incident occurred as alleged. Appellant's burden is to establish, through production of probative, rationalized medical evidence, that the October 7, 2008 incident caused her conditions. Causal relationship is a medical issue that can only be proven by rationalized medical opinion evidence. The Board finds the evidence of record insufficient to satisfy appellant's burden of proof.

The evidence of record consisted of results from diagnostic tests, notes and reports diagnosing lower left lobe pneumonia, flu, anemia, and mild thrombocytopenia. But this evidence is of no probative medical value on the issue of causal relationship as it lacks an opinion explaining how the identified October 7, 2008 employment incident caused the conditions diagnosed.⁵ As such, these reports are insufficient to satisfy appellant's burden of proof.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁶ The Board has held that the fact that a condition manifests itself or worsens during a period of employment⁷ or that work activities produce symptoms revelatory of an underlying condition⁸ does not raise an inference of causal relationship between a claimed condition and an employment incident.⁹

The Board finds that appellant has not satisfied her burden of proof to establish that she sustained an injury in the performance of duty on October 7, 2008 causally related to her employment.

CONCLUSION

The Board finds that appellant has not satisfied her burden of proof to establish that she sustained an injury in the performance of duty on October 7, 2008 causally related to her employment.

⁵ See *Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value). See also, *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001).

⁶ *D.I.*, 59 ECAB ____ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

⁷ *E.A.*, 58 ECAB ____ (Docket No. 07-1145, issued September 7, 2007); *Albert C. Haygard*, 11 ECAB 393, 395 (1960).

⁸ *D.E.*, 58 ECAB ____ (Docket No. 07-27, issued April 6, 2007); *Fabian Nelson*, 12 ECAB 155, 157 (1960).

⁹ *Edgar G. Maiscott*, 4 ECAB 558 (1952) (holding appellant's subjective symptoms and self-serving declarations do not, in the opinion of the Board, constitute evidence of a sufficiently substantial nature).

ORDER

IT IS HEREBY ORDERED THAT the January 23, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 23, 2009
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board